MONTANA ADMINISTRATIVE REGISTER

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The Montana Administrative Register (MAR or Register), a twice-monthly publication, has three sections. The Proposal Notice Section contains state agencies' proposed new, amended, or repealed rules; the rationale for the change; date and address of public hearing; and where written comments may be submitted. The Rule Adoption Section contains final rule notices which show any changes made since the proposal stage. All rule actions are effective the day after publication of the adoption notice unless otherwise specified in the final notice. The Interpretation Section contains the Attorney General's opinions and state declaratory rulings. Special notices and tables are found at the end of each Register.

Inquiries regarding the rulemaking process, including material found in the Montana Administrative Register and the Administrative Rules of Montana, may be made by calling the Secretary of State's Office, Administrative Rules Services, at (406) 438-6122.

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BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE MONTANA STATE AUDITOR

In the matter of the adoption of NEW RULE I pertaining to petitioning rulemaking and the amendment of ARM 6.2.101 and 6.2.120 pertaining to model procedural rules	)))))	NOTICE OF PROPOSED ADOPTION AND AMENDMENT NO PUBLIC HEARING CONTEMPLATED

TO: All Concerned Persons

1. The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI) proposes to adopt and amend the above-stated rules.

2. CSI will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require accommodation, contact CSI no later than 5:00 p.m. on September 17, 2024, to advise us of the nature of the accommodation that you need. Please contact Laura Shirtliff, Creative and Digital Services Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail csi@mt.gov.

3. The rule proposed to be adopted provides as follows:

NEW RULE I RULEMAKING, PETITION TO ADOPT, AMEND, OR REPEAL RULE (1) Section 2-4-315, MCA, authorizes an interested person or member of the legislature acting on behalf of an interested person when the legislature is not in session, to petition an agency to adopt, amend, or repeal a rule.

(a) The petition shall be in writing, signed by or on behalf of the petitioner, and shall contain, a detailed statement of:

(i) the name and address of the petitioner and of any other person known by the petitioner to be interested in the rule sought to be adopted, amended, or repealed;

(ii) sufficient facts to show how the petitioner will be affected by adoption, amendment, or repeal of the rule;

(iii) the rule that the petitioner requests the agency adopt, amend, or repeal. Where amendment of an existing rule is sought, the rule shall be set forth in the petition with proposed deletions interlined and proposed additions underlined; and

(iv) facts and propositions of law in sufficient detail to show the reasons for adoption, amendment, or repeal of the rule.

(b) Legislators may petition the commissioner on behalf of interested parties through an informal letter or memorandum. The petition should include the name of the person or a description of the class of persons on whose behalf the legislator acts. Petitions filed by the appropriate administrative rule review committee of the legislature need not be brought on the behalf of any specifically interested party. Any petition from the legislature or its members should comply with (1)(a)(iii) and (iv).

(c) A template for a rulemaking petition is available on CSI's website.

(2) The petition shall be considered filed when received by CSI.

(3) Upon receipt of the petition, CSI:

(a) may, but is not required to, schedule a hearing or oral presentation of the petitioner's or interested person's views to assist in developing the record;

(b) shall, within 60 days after date of submission of the petition, either:

(i) issue an order denying the petition; or

(ii) initiate rulemaking proceedings in accordance with MAPA.

(4) A decision to deny a petition or to initiate rulemaking proceedings must:

(a) be in writing;

(b) be based on record evidence, including any information submitted by the petitioner, the agency, and interested persons; and

(c) include the reasons for the decision.

AUTH: 2-4-202, MCA
IMP: 2-4-202, 2-4-315, MCA

4. The rules proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

6.2.101 INCORPORATION OF MODEL PROCEDURAL RULES BY THE INSURANCE DEPARTMENT (1) remains the same.

(2) The insurance department has adopted the Secretary of State's Model Organizational and Procedural Rules by reference to such rules as stated in ARM ~~1.3.301 through 1.3.313~~ 1.4.101 through 1.4.109.

AUTH: 33-1-313, MCA
IMP: 2-4-201, 33-1-313, MCA

6.2.120 INCORPORATION OF MODEL PROCEDURAL RULES BY THE SECURITIES DEPARTMENT (1) remains the same.

(2) The securities department has adopted the Secretary of State's Model Organizational and Procedural Rules by reference to such rules as stated in ARM ~~1.3.301 through 1.3.313~~ 1.4.101 through 1.4.109.

AUTH: 30-10-107, MCA
IMP: 2-4-201, 30-10-107, MCA

5. REASON: The Commissioner of Securities and Insurance, Montana State Auditor, Troy Downing (commissioner) is the statewide elected official responsible for administering the Montana Insurance Code and Securities Act. Effective June 22, 2024, the Secretary of State (SOS) repealed its organizational and procedural rules at ARM 1.3.301 through 1.3.313, and enacted simplified rules at ARM 1.4.101 through 1.4.109.

Because the new, simplified rules enacted by SOS did not include any rule similar to former ARM 1.3.308 Rulemaking, Petition to Adopt, Amend, or Repeal Rule and because 2-4-315, MCA, requires each agency to prescribe by rule the form

and process for such rulemaking petitions, CSI proposes as NEW RULE I the language from repealed ARM 1.3.308.

The proposed amendments to ARM 6.2.101 and 6.2.120 would remove citations to the organizational and procedural rules repealed by SOS and adopt by reference the new, simplified rules from SOS.

6. Concerned persons may submit their data, views, or arguments concerning the proposed actions in writing to: Laura Shirtliff, Creative and Digital Services Director, 840 Helena Avenue, Helena, Montana, 59601; telephone (406) 444-2040 or 1-800-332-6148; fax (406) 444-3413; TDD (406) 444-3246; or e-mail CSI@mt.gov, and must be received no later than 5:00 p.m., October 4, 2024.

7. If persons who are directly affected by the proposed actions wish to express their data, views, or arguments orally or in writing at a public hearing, they must make written request for a hearing and submit this request along with any written comments to Laura Shirtliff at the above address no later than 5:00 p.m., October 4, 2024.

8. If the agency receives requests for a public hearing on the proposed actions from either 10 percent or 25, whichever is less, of the persons directly affected by the proposed actions a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those directly affected has been determined to be 15 persons based on the number of Montana legislators.

9. CSI maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list must make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Written requests may be mailed or delivered to the contact person in paragraph 6 or made by completing a request form at any rules hearing held by CSI.

10. An electronic copy of this proposal notice is available through the Secretary of State's website at rules.mt.gov.

11. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

12. With regard to the requirements of 2-4-111, MCA, CSI has determined that the amendment and adoption of above-referenced rules will not significantly and directly impact small businesses.

/s/ Kirsten Madsen
Kirsten Madsen
Rule Reviewer

/s/ Kate McGrath Ellis
Kate McGrath Ellis
Interim Chief Legal Counsel
Commissioner of Securities and Insurance,
Office of the Montana State Auditor

Certified to the Secretary of State August 27, 2024.

BEFORE THE PUBLIC SAFETY OFFICER
STANDARDS AND TRAINING COUNCIL
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 23.13.212, 23.13.301, 23.13.305, 23.13.306, and 23.13.801 pertaining to the certification of public safety officers	)))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On October 9, 2024, at 10:00 a.m., the Public Safety Officer Standards and Training (POST) Council will hold a public hearing in Room 207 of the Karl Ohs Building, Montana Law Enforcement Academy, 2260 Sierra Road East, at Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The POST Council will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the POST Council no later than 3:00 p.m. on October 2, 2024, to advise us of the nature of the accommodation that you need. Please contact Katrina Bolger, POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; fax (406) 444-9978; or e-mail kbolger@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

23.13.212 INSTRUCTOR CERTIFICATION REQUIREMENTS (1) through (3)(c) remain the same.

(d) successful completion of a POST-approved instructor development course or its equivalent. Effective ~~October 28, 2017~~ [effective date of this rule], all instructor development courses must be a minimum of 40 hours in length and must ~~include a minimum of~~ cover the following topics:

(i) ~~12 hours of~~ curriculum design;

(ii) ~~8 hours of~~ adult learning theories;

(iii) ~~8 hours of~~ foundation skills for trainers;

(iv) ~~8 hours of~~ training preparation and delivery; and

(v) ~~4 hours of~~ context of training.

(4) through (6) remain the same.

AUTH: 2-15-2029, MCA
IMP: 2-15-2029, 44-4-403, MCA

REASON: In 2024, the Montana Law Enforcement Academy approached POST staff regarding its instructor development course curriculum. The academy staff felt that the specific number of hours for each topic outlined in POST's rule put

unnecessary constraints on its subject matter experts formulating curricula for public safety officers interested in becoming instructors. To maintain its high standards for instructors providing instruction to public safety officers, while also alleviating concerns raised by the MLEA, POST proposes to remove the specific time requirements for each subject, but maintain each topic as required learning.

23.13.301 QUALIFICATIONS FOR APPROVAL OF PUBLIC SAFETY OFFICER TRAINING COURSES (1) through (2)(c) remain the same.

(d) be at least ~~two~~ one hour~~s~~ or more in length;

(e) and (f) remain the same.

AUTH: 2-15-2029, MCA
IMP: 2-15-2029, 44-4-403, MCA

REASON: Since the Covid-19 pandemic in 2020, POST has seen a steady increase in the amount of quality online training available to public safety officers. Many of these online offerings are less than two hours in length, and officers often wish to obtain POST credit for attending such training. In addition, various stakeholders throughout the state have conferences, during which officers can select courses of varying lengths to attend, including one-hour courses. Allowing officers to obtain POST credit hours for one-hour courses will ensure that officers and their associations are able to maximize time at conferences by ensuring that they are not spending excessive time on a subject that may not require two hours of instruction.

23.13.305 PROCESS FOR OBTAINING POST APPROVAL FOR PUBLIC SAFETY OFFICER TRAINING COURSES (1) through (5) remain the same.

(6) When a POST-certified instructor or governmental agency applies for POST training credit, the POST-certified instructor or governmental agency may request a waiver of the requirement to open and advertise a specific course, which the director may approve or reject, as a matter of discretion, and based upon good cause. The POST-certified instructor or governmental agency must retain documentation of its reasons for requesting the waiver, as outlined in (5).

(6) remains the same but is renumbered (7).

AUTH: 2-15-2029, MCA
IMP: 2-15-2029, 44-4-403, MCA

REASON: During the council's March 2024, meeting, the POST Council considered a request for a waiver of the "open and advertised" requirement pertaining to a bomb technician course. The course was not open and advertised to all public safety agencies, but rather was open and advertised to all public safety agencies with a bomb squad. The council agreed that such waiver requests can typically be left to the discretion of the director.

23.13.306 PROCESS FOR OBTAINING POST TRAINING CREDIT HOURS FOR INDIVIDUAL PUBLIC SAFETY OFFICERS (1) through (4) remain the same.

(5) When a public safety officer applies for POST training credit, the officer may request a waiver of the following requirements:

(a) the requirement to retain an instructor biography or certification information for the instructor; and

(b) the requirement that the course be open and advertised to all public safety agencies.

(6) The officer must retain documentation of its reasons for requesting the waiver, as outlined in (4).

(7) The director may approve or reject any waivers requested, as a matter of discretion and based on good cause.

(5) remains the same but is renumbered (8).

AUTH: 2-15-2029, MCA
IMP: 2-15-2029, 44-4-403, MCA

REASON: During the council's March 2024 meeting, the POST Council considered a request for a waiver of the "open and advertised" requirement pertaining to a bomb technician course. The course was not open and advertised to all public safety agencies, but rather was open and advertised to all public safety agencies with a bomb squad. The council agreed that such waiver requests can typically be left to the discretion of the director. Additionally, since utilizing online training opportunities has become more prevalent among public safety officers, many officers are unable to obtain instructor biographies. The council has allowed the director to use discretion in reviewing instructor biography waivers as well.

23.13.801 MINIMUM STANDARDS FOR THE APPOINTMENT AND CONTINUED EMPLOYMENT OF PUBLIC SAFETY OFFICERS (1) and (2) remain the same.

(a) be a citizen of the United States if the officer is a peace officer or a public safety communications officer; or

(b) ~~may~~ be a citizen of the United States or a ~~registered alien~~ lawful permanent resident if ~~unsworn~~ the officer is not a peace officer or public safety communications officer;

(b) through (k) remain the same, but are renumbered (c) through (l).

(3) and (4) remain the same.

AUTH: 2-15-2029, MCA
IMP: 2-15-2029, 44-4-403, MCA

REASON: In March of 2024, POST was contacted by the Department of Corrections regarding whether a temporary resident could be appointed as a public safety officer. Upon review and further discussion, it was determined that the term "registered alien" does not have a standard definition in immigration law. To clarify, POST is substituting the defined term "lawful permanent resident." While reviewing this issue, POST also discovered that, in addition to peace officers, public safety communications officers are required to be United States citizens under 7-31-202,

MCA. Therefore, POST proposes these changes to comply with the statute and to clarify which officers are included.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Katrina Bolger, Montana POST Council, 2260 Sierra Road East, Helena, Montana, 59602; telephone (406) 444-9974; fax (406) 444-9978; or e-mail kbolger@mt.gov, and must be received no later than 5:00 p.m., October 9, 2024.

5. J. Stuart Segrest, General Counsel to the POST Council, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 4 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at rules.mt.gov.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ DAVID ORTLEY
David Ortley
Deputy Attorney General
Rule Reviewer

/s/ JESSE SLAUGHTER
Jesse Slaughter
Chair
Montana POST Council

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF NATURAL RESOURCES
AND CONSERVATION OF THE STATE OF MONTANA

In the matter of the amendment of ARM 36.25.145, 36.25.146, 36.25.149, 36.25.150, 36.25.152, 36.25.157, 36.25.158, and 36.25.159 pertaining to recreational use of state lands	))))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 26, 2024, at 10:00 a.m., the Department of Natural Resources and Conservation (DNRC) will hold a public hearing at the DNRC building in the Montana Conference Room, First Floor, located at 1539 Eleventh Avenue, Helena, Montana, and via Zoom, to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

a. Join Zoom Meeting: https://mt-gov.zoom.us/j/84524412631?pwd=g3GVbvgjeeCeeVbhwD4azumIIbuRR6.1; Meeting ID: 845 2441 2631; Password: 875446; or

b. Dial by Telephone: +1 646 558 8656; Meeting ID: 845 2441 2631; Password: 875446; Find your local number: https://mt-gov.zoom.us/u/kdTimrwcsV

2. The department will provide reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require accommodation, contact the department no later than 5:00 p.m. on September 20, 2024, to advise us of the nature of the accommodation that you need. Please contact Jamie Price, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601; telephone (406) 444-6615; Montana Relay 711; or e-mail DNRCOAH@mt.gov.

3. The rules as proposed to be amended provide as follows, new matter underlined, deleted matter interlined:

<u>36.25.145 DEFINITIONS</u> Wherever used in ARM 36.25.143 through ARM 36.25.162, unless a different meaning clearly appears from the context:

(1) through (7) remain the same.

(8) "Director" means the director of <u>the Department of</u> Natural Resources and Conservation~~, provided for in 2-15-3202, MCA~~. The director is the chief administrative officer of the department ~~of natural resources and conservation~~.

(9) through (17) remain the same.

~~(18) "Recreational use account" means the account established by 77-1-808, MCA, in which revenues generated from general recreational use of state lands are~~

~~deposited and from which expenses of the general recreational use program are paid.~~

(19) through (21) remain the same but are renumbered (18) through (20).

~~(22)~~(21) "Special recreational use" means:

(a) remains the same.

(b) non-commercial recreational activities conducted by an organization, such as a lodge, business, church, union, or club; and

(c) overnight recreational use on leased or licensed lands by one or more persons outside a designated campground and more than 200 feet from a customary and legal access point or water body.~~; and~~

~~(d) overnight horse use.~~

(22) "Trust land administration account" means the account established by 77-1-108, MCA, from which expenses of the recreational use program are paid.

AUTH: 77-1-209, 77-1-804, 77-1-806, MCA
IMP: 77-1-101, 77-1-801, 77-1-802, 77-1-804, 77-1-805, 77-1-806, MCA

REASON: The proposed amendments are reasonably necessary to implement SB 65 (2009), which eliminated the recreation use account, to implement SB 326 (2015), which authorized overnight horse use, and to remove the citation to 2-15-3202, MCA, which has been repealed.

36.25.146 GENERAL RECREATIONAL USE OF STATE LANDS: LICENSE REQUIREMENT (1) Subject to restrictions imposed pursuant to ARM 36.25.149 and 36.25.153 and closures imposed pursuant to ARM 36.25.150, 36.25.152, and 36.25.153, state lands administered by the department, except those lands described in ARM 36.25.144, are open to general recreational use ~~to a person under the age of 12 years or a person 12 years old or older who obtains a recreational use license, signs that license, and has a valid signed license in his or her possession. Under 77-1-801, MCA, general recreational use without a license is a misdemeanor~~.

(2) A recreational use license is required by any person 12 years of age or older for general recreational use on state lands administered by the department or on private lands that have been opened to the public pursuant to an exchange under ARM 36.25.152.

(a) If the department and the Department of Fish, Wildlife and Parks consent to and sign an agreement for general recreational use pursuant to 77-1-815, MCA, a conservation license is required for general recreational use of legally accessible trust land.

(b) If the department and the Department of Fish, Wildlife and Parks do not have an agreement for general recreational use pursuant to 77-1-815, MCA, a state lands recreational use license is required for general recreational use of legally accessible trust land.

~~(2)~~(3) A ~~general~~ state lands recreational use license is issued for a 12-month period beginning on March 1 of each year and expiring on the last day of February of the next year. The cost ~~of a general recreational use license is $5 before March 1, 1996. After February 29, 1996, the cost of the license~~ is $5 for persons 17 years of age or younger or 60 years of age or older. The cost of the license for persons who

are older than 17 and younger than 60 is $10. Family members living within the same household may obtain recreational use licenses by paying a family fee of $20. The license is personal and non-transferable. It may be purchased at any authorized license agent of the Department of Fish, Wildlife and Parks. Any person may purchase a recreational use license for a spouse, parent, child, brother, or sister~~, but the license is not valid until signed by the person in whose name it is issued~~.

~~(3)~~(4) A person who uses state lands for general recreational use shall abide by the restrictions imposed pursuant to ARM 36.25.149 and may not use for general recreational purposes state lands that have been closed pursuant to ARM 36.25.150, 36.25.152, or 36.25.153. ~~Violations of this provision subjects the violator to civil penalties pursuant to ARM 36.25.157.~~

~~(4)~~(5) No lessee or other person may interfere with a person who is making lawful general recreational use of state lands in accordance with this rule. ~~Violation of this provision subjects the violator to civil penalties pursuant to ARM 36.25.157.~~ The lessee may, without such interference, make inquiry concerning the status of those using state lands.

~~(5)~~(6) Under 77-1-801(2) and (3), MCA, a person who is engaging in general recreational use on state land, or on private land that has been opened pursuant to an exchange under ARM 36.25.152, must, upon request of a fish and game warden or department employee, present for inspection his or her recreational use license. ~~Failure to present the license is a misdemeanor.~~

~~(6) A person who is engaging in general recreational use on state land shall, upon request of a department employee, present his or her recreational use license for inspection. Failure to present the license subjects the recreationist to a civil penalty pursuant to ARM 36.25.157.~~

~~(7) A person who is engaging in general recreational use on private land that has been opened pursuant to an exchange under ARM 36.25.152 shall, upon request of a department employee or a fish and game warden, present his or her recreational use license for inspection. Failure to present the license subjects the recreationist to a civil penalty pursuant to ARM 36.25.157.~~

AUTH: 77-1-106, 77-1-209, 77-1-802, 77-1-804, MCA
IMP: 77-1-106, 77-1-801, 77-1-802, 77-1-804, 77-6-210, MCA

REASON: The proposed amendments are reasonably necessary to streamline the language, to remove the signature requirement for licenses, and to implement HB 521 (2023), which amended licensing requirements and the penalties for violations. Penalties are addressed in ARM 36.25.157.

36.25.149 GENERAL RECREATIONAL USE OF STATE LANDS: RESTRICTIONS (1) through (1)(d) remain the same.

(e) Overnight recreational use on leased or licensed land must take place within 200 feet of a legal and customary access point or water body that is navigable for recreational purposes under 23-2-302, MCA. The person may not drive or park a vehicle more than 50 feet from the access point. A recreationist's overnight use of state lands must not exceed the following time limits:

(i) remains the same.

(ii) for a designated campground - ~~14 consecutive~~ 16 days in a 30-day period;

(iii) for unleased, unlicensed lands outside a campground ~~14~~ - 16 days ~~per calendar year~~ in a 30-day period, unless permission for a longer period is obtained from the department.

(f) A recreationist may ~~not~~ keep horses on state land overnight, subject to the following restrictions:~~.~~

(i) horses may not remain in a stream riparian zone for more than one hour;

(ii) only certified noxious weed seed free forage may be brought onto state land; and

(iii) horses must be restrained in a manner that minimizes impacts to vegetation.

(g) A recreationist shall keep pets on a leash or otherwise in control. A recreationist may not allow the pet to harass livestock or wildlife.

(h) through (j) remain the same.

(k) From March 1 to December 1, or for an extended period of time if posted on site, the acts described under ARM 12.12.109(1)(a), (b), and (c) are prohibited on state land:

(i) located in any county west of the Continental Divide; or

(ii) in Glacier, Toole, Pondera, Teton, Lewis and Clark, Cascade, Jefferson, Broadwater, Meagher, Beaverhead, Madison, Gallatin, Park, Sweet Grass, Stillwater, Carbon, Liberty, Blaine, Hill, Chouteau, Fergus, Judith Basin, Wheatland, or Golden Valley Counties.

(2) remains the same.

AUTH: 77-1-209, 77-1-804, MCA
IMP: 77-1-804, MCA

REASON: The proposed amendments are reasonably necessary to implement SB 326 (2015), which authorized motorized vehicle use on designated trails, amended camping limitations, and authorized overnight horse use. Food storage requirements are necessary to regulate recreational use on state trust lands located in bear country. These changes provide consistency with existing rules/orders meant to reduce wildlife-human conflicts on neighboring state and federal lands.

36.25.150 GENERAL RECREATIONAL USE OF STATE LANDS: CATEGORICAL CLOSURES (1) and (2) remain the same.

(3) Except for closure for fire danger pursuant to (1)(e), the lessee or department shall post categorically closed lands at all customary access points with signs provided by the department or duplicated from signs provided by the department.

AUTH: 77-1-209, 77-1-804, MCA
IMP: 77-1-804, MCA

REASON: The proposed amendments are reasonably necessary to implement SB 326 (2015).

36.25.152 GENERAL RECREATIONAL USE OF STATE LANDS: PROCEDURE FOR SITE SPECIFIC CLOSURES ~~AFTER SEPTEMBER 1, 1992~~

(1) The department may close specific tracts of state land pursuant to this rule ~~after September 1, 1992,~~ for any of the following reasons:

(a) through (9) remain the same.

(10) If the petition is granted, the lessee or department shall post the closed lands at all customary access points with signs provided by the department or duplicated from signs provided by the department. For temporary closures, the lessee shall remove closure signs at the end of the closure period.

(11) through (14) remain the same.

AUTH: 77-1-209, 77-1-804, MCA
IMP: 77-1-804, MCA

REASON: The proposed amendments are reasonably necessary to streamline the language and implement SB 326 (2015).

36.25.157 GENERAL RECREATIONAL USE OF STATE LANDS: ~~CIVIL~~ PENALTIES (1) Pursuant to 77-1-804(8), MCA, if the department and the Department of Fish, Wildlife and Parks consent to and sign an agreement for general recreational use as provided in 77-1-815, MCA, a person who violates a department rule that governs general recreational use is guilty of a misdemeanor.

~~(1)~~(2) ~~Pursuant to 77-1-804(8) , MCA, the~~ The department may assess ~~against a recreationist, lessee, or other person~~ a civil penalty of up to $1,000 ~~for each~~ per day ~~of~~ for ~~violation~~ violations of a department rule that governs general or special recreational use ~~of ARM 36.25.146, ARM 36.25.149, ARM 36.25.150, ARM 36.25.152, ARM 36.25.153, or ARM 36.25.163~~. The department may waive the civil penalty for minor or technical violations and shall waive the civil penalty if a criminal penalty has been assessed for the violation.

(2) remains the same but is renumbered (a).

(a) through (c) remain the same but are renumbered (i) through (iii).

(3) through (5) remain the same but are renumbered (b) through (d).

AUTH: 77-1-209, 77-1-804, MCA
IMP: 77-1-804, MCA

REASON: The proposed amendments are reasonably necessary to streamline the language and to implement HB 521 (2023), which amended penalties for violations.

36.25.158 GENERAL RECREATIONAL USE OF STATE LANDS: DAMAGE REIMBURSEMENT (1) through (5) remain the same.

(6) The department shall, on or before July 1 of each fiscal year, designate a portion of the ~~recreational use~~ trust land administration account for damage

reimbursement. Claims that are granted may be paid only to the extent that funds are available for damage reimbursement in the ~~recreational use~~ trust land administration account and must be paid in the order they have been filed with the department.

AUTH: 77-1-209, 77-1-804, MCA
IMP: 77-1-809, MCA

REASON: The proposed amendments are reasonably necessary to implement SB 65 (2009), which eliminated the recreation use account.

36.25.159 GENERAL RECREATIONAL USE OF STATE LANDS: WEED CONTROL MANAGEMENT (1) The lessee is responsible for weed control on leased state land. However, weed control cost share funds designated pursuant to (2) are available to lessees from the ~~recreational~~ trust land administration account for control of noxious weed infestations caused by general recreational use after February 29, 1992. "Noxious weeds" are those weeds designated as noxious weeds by the Montana Department of Agriculture.

(2) The department shall, on or before July 1 of each fiscal year, designate a portion of the ~~general recreational use~~ trust land administration account for weed control.

(3) through (5) remain the same.

AUTH: 77-1-209, 77-1-810, MCA
IMP: 77-1-810, MCA

REASON: The proposed amendments are reasonably necessary to implement SB 65 (2009), which eliminated the recreation use account.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Martin Balukas, Department of Natural Resources and Conservation, 1539 Eleventh Avenue, P.O. Box 201601, Helena, Montana, 59620-1601; or e-mail DNRCOAH@mt.gov, and must be received no later than 5:00 p.m. on October 4, 2024.

5. Martin Balukas, Department of Natural Resources and Conservation, has been designated to preside over and conduct this hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 2 above or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at rules.mt.gov.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors for SB 326 (2015) and HB 521 (2023) were contacted by e-mail on June 21, 2024. The primary bill sponsor for SB 65 (2009) was contacted by mail on July 12, 2024.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rules will not significantly and directly impact small businesses.

/s/ Jason Kampman
Jason Kampman
Rule Reviewer

/s/ Amanda Kaster
Amanda Kaster
Director
Natural Resources and Conservation

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.40.1002, 37.40.1005, and 37.40.1018 pertaining to community first choice services	))))	AMENDED NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On July 26, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1065 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1784 of the 2024 Montana Administrative Register, Issue Number 14. The notice incorrectly stated a public hearing was scheduled for August 15, 2024, at 11:00 a.m. The notice should have instead stated 2:00 p.m.

2. A public hearing was held on August 15, 2024, at 2:00 p.m. Due to the incorrect time stated in the initial notice, the Department of Public Health and Human Services will hold a second public hearing on September 27, 2024, at 9:00 a.m., via remote conferencing to consider the proposed amendment of the above-stated rules. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: https://mt-gov.zoom.us/j/87902153468?pwd=d6lUmFeuPpyW64HiHfdbdp6bDT8VUz.1, meeting ID: 879 0215 3468 and password: 773454; or

(b) Dial by telephone: 646 558 8656, meeting ID: 879 0215 3468, and password: 773454. Find your local number: https://mt-gov.zoom.us/u/kb5Wfr30mj.

3. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 13, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena MT 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

4. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., October 4, 2024.

/s/ Robert Lishman
Robert Lishman
Rule Reviewer

/s/ Robert Siedlecki
Robert Siedlecki, Deputy Director
Department of Public Health and Human Services

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.34.113 pertaining to Certification of Persons Assisting in the Administration of Medication	))))	NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 26, 2024, at 11:00 a.m., the Department of Public Health and Human Services will hold a public hearing via remote conferencing to consider the proposed amendment of the above-stated rule. Interested parties may access the remote conferencing platform in the following ways:

(a) Join Zoom Meeting at: https://mt-gov.zoom.us/j/89114528756?pwd=VbgiMLnLNpM1gXobvAhFP6K9TbUnWH.1, meeting ID: 891 1452 8756, and password: 337906; or

(b) Dial by telephone: +1 646 558 8656, meeting ID: 891 1452 8756, and password: 337906. Find your local number: https://mt-gov.zoom.us/u/kco3aZ6WQn.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Public Health and Human Services no later than 5:00 p.m. on September 12, 2024, to advise us of the nature of the accommodation that you need. Please contact Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; telephone (406) 444-4094; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

37.34.113 CERTIFICATION OF PERSONS ASSISTING IN THE ADMINISTRATION OF MEDICATION: ADOPTION OF THE HEALTH AND MEDICATION ADMINISTRATION MANUAL (1) For the purpose of certification of persons who supervise or assist in the administration of medication to persons through the state-sponsored developmental disabilities services, the department has developed and published an instructional and reference aid entitled Health and Medication Administration Manual for ~~Individuals~~ Persons with Intellectual/Developmental Disabilities: A ~~Self-Paced~~ Study Guide and Reference Manual, published and effective ~~October 1, 2009~~ October 1, 2024. The department adopts and incorporates by reference this manual. Copies may be obtained from the Department of Public Health and Human Services, Developmental Disabilities Program, P.O. Box 4210, Helena, MT 59604.

AUTH: 53-20-204, MCA
IMP: 53-20-204, MCA

4. STATEMENT OF REASONABLE NECESSITY

The Department of Public Health and Human Services (department) is proposing to amend ARM 37.34.113 pertaining to the Health and Medication Administration Manual.

The department proposes amending ARM 37.34.113 to adopt and incorporate an updated Health and Medication Administration Manual. The current manual was adopted in 2009. The updates and additions to the information are required to provide current information on medications and medication assistance protocols. Additionally, the manual's format and writing style have been updated for clarity. Direct support professionals (DSPs) are required to hold current certification to assist people enrolled in the DDP 0208 comprehensive waiver with the administration of medications. The manual delivers information to prepare DSPs for the medication certification examination and serves as a reference guide during fieldwork.

ARM 37.34.113 The manual would incorporate the changes specified below.

1. Easier format for reading.
2. Illustrations on key points that will help with recall and finding the topic readily.
3. Old chapters in the 2009 manual have been replaced with new ones:
   - Chapter 8 replaces chapter 4.
   - Chapters 9 and 10 replace chapter 6.
   - Chapter 11 replaces chapter 7.
   - Chapter 12 replaces chapter 8.
   - Chapter 13 replaces chapter 9.
   - Chapter 15 replaces chapter 10.
   - Chapter 16 replaces chapter 11.
4. New chapters have been added in:
   - Chapter 4 Forms of Medication
   - Chapter 6 Documentation
   - Chapter 14 Dehydration
   - Chapter 17 Sleep Apnea
   - Chapter 19 Skin Problems
   - Chapter 21 Falls
   - Chapter 22 Diets
5. Added appendices 1 through 22 that expand upon the information found in each chapter.
6. Study questions are now in the appendices rather than at the end of each chapter.
7. The new manual has been divided into four sections.
   - Section 1

- Section 2
- Section 3A
- Section 3B

Fiscal Impact

There are no anticipated fiscal impacts to this rule amendment.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Bailey Yuhas, Department of Public Health and Human Services, Office of Legal Affairs, P.O. Box 4210, Helena, Montana, 59604-4210; fax (406) 444-9744; or e-mail hhsadminrules@mt.gov, and must be received no later than 5:00 p.m., October 4, 2024.

6. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct this hearing.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above.

8. An electronic copy of this notice is available on the department's web site at https://dphhs.mt.gov/LegalResources/administrativerules, or through the Secretary of State's web site at rules.mt.gov.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

10. With regard to the requirements of 2-4-111, MCA, the department has determined that the amendment of the above-referenced rule will not significantly and directly impact small businesses.

11. Section 53-6-196, MCA, requires that the department, when adopting by rule proposed changes in the delivery of services funded with Medicaid monies, make a determination of whether the principal reasons and rationale for the rule can be assessed by performance-based measures and, if the requirement is applicable, the method of such measurement. The statute provides that the requirement is not applicable if the rule is for the implementation of rate increases or of federal law.

The department has determined that the proposed program changes presented in this notice are not appropriate for performance-based measurement and therefore are not subject to the performance-based measures requirement of 53-6-196, MCA.

/s/ Brenda K. Elias
Brenda K. Elias
Rule Reviewer

/s/ Charles T. Brereton
Charles T. Brereton, Director
Department of Public Health and Human Services

Certified to the Secretary of State August 27, 2024.

BEFORE THE FISH AND WILDLIFE COMMISSION
AND THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I pertaining to a Resident Super-Tag Hunting License	)))	NOTICE OF ADOPTION

TO: All Concerned Persons

1. On July 5, 2024, the Fish and Wildlife Commission (commission) and the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-624 regarding a public hearing on the proposed adoption of the above-stated rule at page 1514 of the 2024 Montana Administrative Register, Issue Number 13.

2. On August 2, 2024, a public hearing was held on the adoption of the above-stated rule, via Zoom. No public comment was provided at the hearing, but the commission and department also solicited and received written comment through August 2, 2024.

3. The commission and department have adopted NEW RULE I (ARM 12.3.623) with the following changes from the proposal notice, based on the written comment received and after further review, new matter underlined, deleted matter interlined:

NEW RULE I (ARM 12.3.623) RESIDENT SUPER-TAG HUNTING LICENSE

(1) through (3) remain as proposed.

(4) The resident super-tag is valid for the taking of one animal of the species for which it was issued and is valid only for the current license year. A resident super-tag may be used ~~issued~~ in any legally described hunting district with an established season for that species. The person using the resident super-tag may use it only during a ~~the~~ hunting district's established season and is subject to all hunting regulations, including special weapons regulations, that apply to a hunting district. However, a resident super-tag is not subject to an established quota in a hunting district.

(5) and (6) remain as proposed.

AUTH: 87-1-275, 87-1-301, MCA
IMP: 87-1-275, MCA

4. The commission and department have thoroughly considered the written comments received. A summary of the comments received, and the department's and commission's responses, are as follows:

COMMENT 1: A commenter noted inconsistencies between the language in the current general super-tag rule (ARM 12.3.622) and the language in the proposed resident super-tag rule, specifically regarding the words "issued" vs. "used" with

respect to any legally described hunting district and the words "a" vs. "the" with reference to a hunting district's established season. The commenter questioned whether it was the commission and department's intention that the resident super-tag be valid in only one hunting district.

RESPONSE 1: The commission and department appreciate the comment and have revised the language of proposed NEW RULE I(4) (ARM 12.3.623) to be consistent with the language in ARM 12.3.622(4). It is not the commission or department's intention that the resident super-tag be valid or used in only one hunting district with a legally established season for the species selected for the resident super-tag.

COMMENT 2: A commenter noted that current ARM 12.3.622(4) (the current general super-tag rule) contains language allowing the use of that general super-tag in a hunting district that otherwise requires a special permit and that the proposed NEW RULE I(4) (ARM 12.3.623) does not contain the same language. The commenter questioned whether a permit would also be required to use the resident super-tag if one is required to hunt the species in a particular district.

RESPONSE 2: The general super-tag rule (ARM 12.3.622) includes deer and elk, which may be hunted in some districts only with the combination of a license and a permit. The species for which a resident super-tag will be available (Shiras moose, mountain sheep, and mountain goat) are species for which only a limited-draw license is required, and no permit is required in addition to the license.

/s/ Jeffrey M. Hindoien
Jeffrey M. Hindoien
Rule Reviewer

/s/ Lesley Robinson
Lesley Robinson
Chair
Fish and Wildlife Commission

/s/ Melissa Watson
Melissa Watson
Chief of Staff
Fish, Wildlife and Parks

Certified to the Secretary of State August 27, 2024.

BEFORE THE STATE PARKS AND RECREATION BOARD
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 12.3.650 and the adoption of NEW RULES I and II pertaining to the Smith River private and commercial use permit system	)))))	NOTICE OF AMENDMENT AND ADOPTION

TO: All Concerned Persons

1. On June 21, 2024, the State Parks and Recreation Board (board) published MAR Notice No. 12-629 pertaining to the public hearing on the proposed amendment and adoption of the above-stated rules at page 1412 of the 2024 Montana Administrative Register, Issue Number 12.

2. On July 19, 2024, a public hearing was held on the proposed amendment and adoption of the above-stated rules, via Zoom. The board also received written comments through July 22, 2024.

3. The board has amended ARM 12.3.650 as proposed.

4. The board has adopted NEW RULE II (12.11.6802) as proposed.

5. The board has adopted NEW RULE I (12.11.6801) as proposed, with the following changes from the proposal notice, new matter underlined, deleted matter interlined:

NEW RULE I (12.11.6801) SMITH RIVER COMMERCIAL USE PERMIT

(1) through (3) remain as proposed.

(4) Any commercial launches held by the outfitters currently identified in Appendix A that may become available by no longer being allocated to a valid commercial use permit will be made available to all commercial fishing and floating outfitters ~~the remaining outfitters identified in Appendix A~~ via a random lottery to be conducted by the department. ~~In the event any commercial launches remain available after that initial lottery, they will be made available to other licensed outfitters via a second random lottery to be conducted by the department.~~

6. The board has thoroughly considered the comments and testimony received. No comments or testimony were received regarding the proposed amendment to ARM 12.3.650 to correct the inadvertent reference to "June 15" instead of "July 15" as the end of the peak floating season. No comments or testimony were received in opposition to the adoption of proposed NEW RULE I(1) through (3) or to the adoption of NEW RULE II in its entirety.

A summary of the comments and testimony received regarding the proposed NEW RULES I and II, and the board's responses are as follows:

COMMENT 1: Several comments were received in support of the adoption of proposed NEW RULE I(1) through (3) (ARM 12.11.6801) and NEW RULE II in its entirety (ARM 12.11.6802).

RESPONSE 1: The board appreciates the comments and support for the proposed new rules.

COMMENT 2: The board received no comments or testimony in support of or in opposition to the adoption of proposed NEW RULE II(4) but did receive comments expressing neutrality on the proposed language. The commenters noted that there could be advantages to reallocating any available launches to the existing outfitters in terms of experience and economies of scale and the potential difficulties that might be experienced by any new outfitter with perhaps only one launch available. The commenters also noted, however, the potential downside of a dwindling pool of existing providers over time that could result in less choice for the general public.

RESPONSE 2: The board appreciates the comments and perspectives provided and has decided to broaden the pool of potential lottery participants to include other licensed outfitters. As several commenters noted, there have not been any historical instances to date of launches becoming available for reallocation, and the board anticipates that trend will continue with an infrequent need for any reallocation. In the event it is required, however, NEW RULE II(4) will provide certainty and clarity in terms of the process to be followed.

COMMENT 3: The board received multiple comments stating objections to and/or disagreements with the language provided in the REASON statement of the notice for the proposed amendment and adoption. Specifically, multiple commenters expressed disagreement with the two possible scenarios described in that REASON statement (apart from permit revocation) for how launches might become available for reallocation, i.e., upon the death of a permit holder where no arrangements are made for the sale or transfer of the permit holder's business or in the event of a sale or transfer of the permitted business to a buyer/transferee who is not eligible to receive their own commercial use permit.

RESPONSE 3: The board appreciates the comments and input, but they are beyond the scope of the current rulemaking process. The language in the REASON statement of the notice is not part of the proposed NEW RULE II itself, and there is no language in NEW RULE II(4) that creates any new or different mechanisms for how any commercial launches might become available for reallocation. Even if, as the commenters suggest, the scenarios described in the REASON statement of the notice are not ones that could result in the availability of any launches, there is at least one acknowledged scenario (permit revocation) that could trigger the need for reallocation. In that event, proposed NEW RULE II(4) will provide certainty and clarity as to how that reallocation process will work.

COMMENT 4: One commenter indicated that the language of proposed NEW RULE II(4) was unclear.

RESPONSE 4: The board appreciates the comment, but believes the referenced language is sufficiently clear in describing both (1) the circumstance that will trigger the reallocation process and (2) how that reallocation process will be conducted.

/s/ Jeffrey M. Hindoien
Jeffrey M. Hindoien
Rule Reviewer

/s/ Russ Kipp
Russ Kipp
Chair
State Parks and Recreation Board

/s/ Dustin Temple
Dustin Temple
Director
Fish, Wildlife and Parks

Certified to the Secretary of State on August 27, 2024.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I pertaining to electronic tagging	)))	NOTICE OF ADOPTION

TO: All Concerned Persons

1. On July 5, 2024, the Department of Fish, Wildlife and Parks (department) published MAR Notice No. 12-631 pertaining to the public hearing on the proposed adoption of the above-stated rule at page 1517 of the 2024 Montana Administrative Register, Issue Number 13.

2. On August 2, 2024, a public hearing was held on the adoption of the above-stated rule, via Zoom. The department received both written and oral testimony comments by August 5, 2024.

3. The department has adopted NEW RULE I (ARM 12.6.302) as proposed.

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: One commenter questioned how the meeting could only be held via Zoom yet be a public hearing.

RESPONSE 1: This comment does not require acceptance or rejection by the department regarding the substance of the rules as proposed. Nevertheless, under the Montana Constitution, the "right of participation" requires a "reasonable opportunity" and "right to know" carries the mandate of opportunity to "observe." *See* Mont. Const. Art. II, Sec. 8; *see also* Mont. Const. Art. II, Sec. 9. Neither the "right of participation" nor the "right to know" requires actual physical presence at the meeting. Moreover, the Zoom platform options provide the citizens of Montana an opportunity to attend the meeting when they may not be able to otherwise attend an in-person-only hearing.

COMMENT 2: One commenter supported the proposed addition to electronic tags.

RESPONSE 2: This comment does not require acceptance or rejection by the department. However, the department acknowledges the comment and his/her acceptance of the rule.

/s/ Alexander Scolavino
Alexander Scolavino
Rule Reviewer

/s/ Dustin Temple
Dustin Temple
Director
Fish, Wildlife and Parks

Certified to the Secretary of State on August 27, 2024.

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the adoption of an emergency rule closing the Tongue River Reservoir in Big Horn County	)))	NOTICE OF ADOPTION OF EMERGENCY RULE

TO: All Concerned Persons

1. The Department of Fish, Wildlife and Parks (department) has determined the following reasons justify the adoption of an emergency rule:

(a) With two fires burning near the Tongue River Reservoir, fire suppression resources are using the reservoir water to fight the fire.

(b) In order to protect the public from any injuries resulting from the fire or use of the water to suppress the fire, the Tongue River Reservoir is closed to all watercraft use.

(c) Therefore, as this situation constitutes an imminent peril to public health, safety, and welfare, and this threat cannot be averted or remedied by any other administrative act, the department adopts the following emergency rule. The emergency rule will be sent as a press release to newspapers throughout the state. Also, signs informing the public of the partial closure will be posted at access points. The rule will be sent to interested parties and published as an emergency rule in Issue No. 17 of the 2024 Montana Administrative Register.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process and need an alternative accessible format of the notice. If you require an accommodation, contact the department no later than 5:00 p.m. on September 20, 2024, to advise us of the nature of the accommodation that you need. Please contact Christina Bell, Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 594-8071; or e-mail cbell@mt.gov.

3. The emergency rule is effective August 23, 2024, when this rule notice is filed with the Secretary of State.

4. The text of the emergency rule provides as follows:

NEW RULE I EMERGENCY CLOSURE OF THE TONGUE RIVER RESERVOIR (1) The Tongue River Reservoir is located in Big Horn County.

(2) The Tongue River Reservoir is closed to all watercraft use.

(3) This rule will expire as soon as the department determines the fire conditions improve and no longer present a risk to public health and safety. This will depend on weather conditions and the extent of the fire damage. Signs closing the Tongue River Reservoir will be removed when the rule is no longer effective.

AUTH: 2-4-303, 87-1-202, MCA

IMP: 2-4-303, 87-1-202, MCA

5. The rationale for the emergency rule is set forth in paragraph 1.

6. Concerned persons are encouraged to submit their comments to the department. Please submit comments along with names and addresses to: Christina Bell, Department of Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT, 59602-0701; e-mail cbell@mt.gov. Any comments must be received no later than October 7, 2024.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing or email address of the person to receive the notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, or may be completed online at https://public.govdelivery.com/accounts/MTFWP/subscriber/new.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. The special notice requirements of 2-4-303, MCA have been met. All committee members and staff of the Environmental Quality Council, with addresses provided on the Montana Legislature's website (leg.mt.gov), were contacted by e-mail on August 23, 2024.

/s/ Quentin Kujala
Quentin Kujala
Chief of Conservation Policy
Department of Fish, Wildlife and Parks

/s/ Jaime MacNaughton
Jaime MacNaughton
Rule Reviewer

Certified to the Secretary of State August 23, 2024.

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY
OF THE STATE OF MONTANA

In the matter of the adoption of NEW RULE I and the amendment of ARM 17.36.126, 17.38.101, 17.38.234 and the amendment to Circular DEQ-1 pertaining to ultraviolet treatment of groundwater sources of public water systems	)))))))	NOTICE OF ADOPTION AND AMENDMENT (PUBLIC WATER SUPPLY)

TO: All Concerned Persons

1. On June 21, 2024, the Department of Environmental Quality published MAR Notice No. 17-442 pertaining to the public hearing on the proposed adoption and amendment of the above-stated rules at page 1418 of the 2024 Montana Administrative Register, Issue Number 12.

2. The department has adopted NEW RULE I (17.38.228) as proposed.

3. The department has amended the above-stated rules as proposed.

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

COMMENT 1: The commenter asked if UV treatment is required if a public water supply (PWS) already uses chlorine disinfectant.

RESPONSE 1: If a PWS is already using a chlorine disinfectant, UV treatment is not required. NEW RULE I (17.38.228) is not intended to require anyone to disinfect. NEW RULE I (17.38.228) only requires PWSs with groundwater sources that use UV treatment as disinfectant to monitor and report to ensure that the treatment is as effective as required.

COMMENT 2: The commenter asked if there was going to be trainings available to help small systems meet the reporting requirements of this rule.

RESPONSE 2: NEW RULE I (17.38.228) does not provide training. Existing design standards in Circular DEQ-1 require operators to be instructed on and provided manuals on all units installed in the facilities.

COMMENT 3: The commenter was curious if there will be any financial assistance or grants available for small systems to install UV treatment.

RESPONSE 3: NEW RULE I (17.38.228) does not provide for funding. Existing financial options may be available from federal, state, or other sources depending on

the particular system, situation, and the funding source's individual qualifications and resources.

/s/ *Sarah Christopherson*
SARAH CHRISTOPHERSON
Rule Reviewer

/s/ *Sonja Nowakowski*
SONJA NOWAKOWSKI
Director
Department of Environmental Quality

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF CORRECTIONS
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 20.7.1101 concerning conditions on probation or parole	)))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On July 26, 2024, the Department of Corrections published MAR Notice No. 20-7-74 concerning the public hearing on the proposed amendment of the above-stated rule at page 1639 of the Montana Administrative Register, Issue Number 14.

2. The department has amended the following rule as proposed, but with the following changes from the original proposal new matter underlined, deleted matter interlined:

20.7.1101 CONDITIONS ON PROBATION OR PAROLE (1) The offender is under the supervision of the department, subject to all requirements of a law-abiding citizen, and rules and regulations of adult probation and parole, including any sanctions.

(2) The offender must obtain prior approval from his/her supervising officer before taking up residence in any location. The offender shall not change his/her place of residence without first obtaining ~~written~~ permission from his/her supervising officer or the officer's designee. The offender must make the residence open and available to an officer for a home visit ~~or for a search upon reasonable suspicion~~. The offender will not own dangerous or vicious animals and will not use any device that would hinder an officer from visiting or searching the residence.

(3) The offender must obtain permission from his/her supervising officer or the officer's designee before leaving his/her assigned district. For any in-state travel, the offender must confer with their supervising officer about the travel permit policy.

(4) The offender must personally contact his/her supervising officer or designee when directed by the officer.

(5) The offender is prohibited from using, owning, possessing, transferring, or controlling any firearm, ammunition (including black powder), weapon, or chemical agent such as oleoresin capsicum or pepper spray.

(6) Upon reasonable suspicion that the offender has violated the conditions of supervision, a probation and parole officer may search the person, vehicle, and residence of the offender, and the offender must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the offender has violated the conditions of supervision.

(7) The offender must notify his/her supervising officer within 72 hours whenever the offender has a change in circumstances of employment or alternative approved programming, or any contact with law enforcement.

(8) The Montana Board of Pardons and Parole and the sentencing court have the authority to order the offender to abide by additional conditions and such conditions must be contained in the judgment or parole decision.

AUTH: 2-4-201, 46-23-1011, 53-1-203, MCA
IMP: 46-23-1011, 46-23-1021, MCA

3. The department has thoroughly considered the comments and testimony received. A summary of the comments received, and the department's responses are as follows:

COMMENT #1: The department received a comment that the "reasonable suspicion" language in new (2) has caused confusion and issues with courts, department employees, and the supervised population. The comment suggested removing the language that has caused confusion and issues.

RESPONSE #1: The department reviewed the language in question and agrees that the phrase "or for a search upon reasonable suspicion" is inconsistent with the state of the law and may conflict with other language in the rule at issue. Based on this comment, the department has removed the phrase "or for a search upon reasonable suspicion" in this rule notice.

COMMENT #2: The department received a comment in support of the amendments.

RESPONSE #2: The department appreciates the supportive comment.

COMMENT #3: The department received a comment that requiring "written permission" for a change in residence in new (2) is outdated. The comment reflected that this is not standard practice, and the rule should be adjusted to reflect this.

RESPONSE #3: The department reviewed the language in question and agrees there should not be an express requirement for "written permission." The department has removed the term "written" in new (2) as reflected in this rule notice.

COMMENT #4: The department received a comment that it should retain language in former (8) that imposed an expectation that offenders remain law-abiding.

RESPONSE #4: The department reviewed the comment and agrees that requiring offenders to remain law-abiding is appropriate. The department has included this language in new (1).

/s/ Andres Haladay
Andres Haladay
Rule Reviewer

/s/ Brian Gootkin
Brian Gootkin
Director
Department of Corrections

Certified to the Secretary of State August 27, 2024.

BEFORE THE BOARD OF OUTFITTERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.171.401, 24.171.405, 24.171.407, 24.171.408, 24.171.410, 24.171.412, 24.171.413, 24.171.501, 24.171.502, 24.171.507, 24.171.508, 24.171.512, 24.171.520, 24.171.601, 24.171.701, and 24.171.2301, the adoption of NEW RULES I and II, and the repeal of ARM 24.171.104, 24.171.404, 24.171.602, 24.171.2101, 24.171.2104, and 24.171.2305 pertaining to the board of outfitters	))))))))))))))	NOTICE OF AMENDMENT, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On July 26, 2024, the Board of Outfitters (agency) published MAR Notice No. 24-171-43 regarding the public hearing on the proposed changes to the above-stated rules, at page 1642 of the 2024 Montana Administrative Register, Issue No. 14.

2. On August 20, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. Comments were received by the deadline.

3. The agency has thoroughly considered the comments received. A summary of the comments and the agency responses are as follows:

Comment 1: Numerous commenters support the board's rulemaking proposals.

Response 1: The board appreciates all comments received during the rulemaking process.

Comment 2: One commenter disagreed with the board's proposed changes to guide advertising, stating that guides are independent contractors and that outfitters should not be controlling how guides work.

Response 2: The board is charged with protecting the public and is responding to many concerns from stakeholders that guides advertising to the general public caused confusion as to what services a guide was allowed to provide, and who clients were allowed to contract with.

Comment 3: Several commenters supported the idea to allow the board to abate fees when necessary.

Response 3: The board's adoption of the department's fee abatement rule does not preclude the board from abating its fees if the board determines fee abatement is necessary.

Comment 4: Several commenters requested the board eliminate fees for review and processing and equipment inspection.

Response 4: The board cannot make these changes as part of this rules package but may consider the commenters' request in a future rules package.

Comment 5: Several commenters opposed the elimination of board-issued watercraft identification tags.

Response 5: The board is amending the rule to state that the department will provide the template and form of the tags but will require licensees to print and affix the tags.

Comment 6: Several commenters noted they had provided the board with extensive comments about guide advertising violations and potential solutions to the advertising issues, including a guide examination, prohibiting advertising by guides, and holding the endorsing outfitters responsible for guide advertising.

Response 6: The board has proposed to prohibit guides from advertising to the general public. The board will not be imposing a new examination on applicants. The board will consider disciplining endorsing outfitters if the board receives complaints about guide advertising violations. The commenters are encouraged to file complaints with the board if the commenters are aware of potential violations.

Comment 7: Several commenters opposed the requirement that licensees print and affix the watercraft identification tags, suggesting the board continue to provide the tags.

Response 7: The board disagrees with the commenters but can revisit the issue if complaints about identification increase.

Comment 8: Numerous commenters support the board requiring a guide applicant to have an endorsing outfitter.

Response 8: While the board understands the commenter's concern, the legislature passed 37-47-303, MCA, requiring the board to set guide qualifications other than an outfitter's endorsement. The board may not alter the statute.

Comment 9: Several commenters requested the board make a third class of endorsement for outfitters by separating "boat or other floating craft" and "motorized watercraft" into separate endorsements.

Response 9: The board considered the commenters' suggestions when proposing the rule and elected not to make the requested change at this time but may consider the request in the future.

Comment 10: Several commenters opposed language in ARM 24.171.502 that revised language to read "within a three-year period, 120 days of verified experience . . . " as inconsistent with the original language that required an outfitter applicant attaining any watercraft endorsement to have at least three years and at least 120 days experience.

Response 10: The board agreed with the commenters and reinserted the original language in the proposal notice.

Comment 11: Several commenters opposed the elimination of the successorship rule.

Response 11: The board determined not to repeal the successorship rule, and the rule was not included in the proposal.

Comment 12: Several commenters requested the board create a new examination for a new class of endorsement as identified in Comment 9.

Response 12: See Response 9.

Comment 13: Several commenters believe the amendments to ARM 24.171.508 remove the applicant's ability to know their application is incomplete.

Response 13: The department, which processes license applications on behalf of the board, has standardized processes for communicating with applicants, including notification that an application is incomplete and the specific items missing from that application. It is unnecessary to restate this process in rule.

Comment 14: Several commenters supported the repeal of ARM 24.171.2101 - Renewals as the board maintains authority to waive late fees for licensed guides under ARM 24.101.403.

Response 14: The board appreciates all comments received during the rulemaking process.

Comment 15: Several commenters requested the board prohibit advertising by guides.

Response 15: The board has amended the rules to prohibit guide advertising to the general public in ARM 24.171.405.

4. The agency has amended ARM 24.171.401, 24.171.405, 24.171.407, 24.171.408, 24.171.410, 24.171.412, 24.171.413, 24.171.501, 24.171.502,

24.171.507, 24.171.508, 24.171.512, 24.171.520, 24.171.601, 24.171.701, and 24.171.2301 as proposed.

5. The agency has adopted NEW RULES I (24.171.415) and II (24.171.416) as proposed.

6. The agency has repealed ARM 24.171.104, 24.171.404, 24.171.602, 24.171.2101, 24.171.2104, and 24.171.2305 as proposed.

BOARD OF OUTFITTERS,
JOHN WAY, CHAIR

/s/ JENNIFER STALLKAMP
Jennifer Stallkamp
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 27, 2024.

BEFORE THE BOARD OF REALTY REGULATION
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM 24.210.301, 24.210.641, and 24.210.667, the adoption of NEW RULES I fee abatement and II administrative suspension, and the repeal of ARM 24.210.801, 24.210.803, 24.210.805, 24.210.807, 24.210.809, 24.210.812, 24.210.818, 24.210.820, 24.210.825, 24.210.826, 24.210.827, 24.210.828, 24.210.829, 24.210.835, 24.210.1001, 24.210.1007, 24.210.1016, 24.210.1020, 24.210.1025, 24.210.1027, 24.210.1031, and 24.210.1037 pertaining to property management and timeshare registration	))	NOTICE OF AMENDMENT, ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On July 26, 2024, the Board of Realty Regulation (agency) published MAR Notice No. 24-210-49 regarding the public hearing on the proposed changes to the above-stated rules, at page 1701 of the 2024 Montana Administrative Register, Issue No. 14.

2. On August 16, 2024, a public hearing was held on the proposed changes to the above-stated rules via the videoconference and telephonic platform. No comments were received by the deadline.

3. The agency has amended ARM 24.210.301, 24.210.641, and 24.210.667 as proposed.

4 The agency has adopted NEW RULE I (24.210.403) and NEW RULE II (24.210.440) as proposed.

5. The agency has repealed ARM 24.210.801, 24.210.803, 24.210.805, 24.210.807, 24.210.809, 24.210.812, 24.210.818, 24.210.820, 24.210.825, 24.210.826, 24.210.827, 24.210.828, 24.210.829, 24.210.835, 24.210.1001, 24.210.1007, 24.210.1016, 24.210.1020, 24.210.1025, 24.210.1027, 24.210.1031, and 24.210.1037 as proposed.

BOARD OF REALTY REGULATION
SHARON VIRGIN, PRESIDING OFFICER

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ SARAH SWANSON
Sarah Swanson, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 37.99.102, 37.99.115, 37.99.118, 37.99.119, 37.99.125, 37.99.127, 37.99.132, 37.99.172, and 37.99.216 pertaining to Private Alternative Adolescent Residential Programs	))))))))	NOTICE OF AMENDMENT

TO: All Concerned Persons

1. On May 10, 2024, the Department of Public Health and Human Services published MAR Notice No. 37-1050 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 1024 of the 2024 Montana Administrative Register, Issue Number 9.

2. The department has amended the following rules as proposed: ARM 37.99.115, 37.99.119, 37.99.125, 37.99.127, 37.99.132, and 37.99.216.

3. The department has amended the following rules as proposed, but with the following changes from the original proposal, new matter underlined, deleted matter interlined:

37.99.102 PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAMS: DEFINITIONS (1) through (20) remain as proposed.

(21) "Serious incident" means suicide attempt, use of excessive physical force by staff, use of a restraint or seclusion, physical or sexual assault of a program participant by staff, or another program participant, injury to a program participant which requires emergency medical care, known, or suspected abuse or neglect (as defined in 41-3-102, MCA), of a program participant by staff or another program participant, a near miss or the death of a program participant, elopement, or an incident that involves law enforcement.

(22) remains as proposed.

AUTH: 52-2-803, 52-2-805, MCA
IMP: 52-2-802, 52-2-803, 52-2-805 MCA

37.99.118 PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAMS: WRITTEN AGREEMENT (1) through (1)(d) remain as proposed.

(e) a statement describing the communication policy, which must include a minimum of one confidential video telephonic communication contact per week between the youth and the youth's parents/legal guardian or foster parent(s), in addition to any therapeutic contact (family therapy), which:~~;~~

(i) is confidential, i.e., in a private setting with no other individuals in the vicinity of being able to see or hear what is being discussed; and

(ii) is allocated a minimum of 15 minutes for the confidential video communication between youth and the youth's parents/legal guardian;

(f) through (3) remain as proposed.

AUTH: 52-2-803, 52-2-805, MCA
IMP: 52-2-803, 52-2-805, 52-2-809, MCA

37.99.172 PRIVATE ALTERNATIVE ADOLESCENT RESIDENTIAL PROGRAMS: USE OF CRISIS INTERVENTION AND PHYSICAL RESTRAINT STRATEGIES (1) remains as proposed.

(2) The crisis intervention and physical restraint policies and procedures must include evidenced-based training and include:

(a) through (6) remain as proposed.

AUTH: 52-2-803, 52-2-805, MCA
IMP 52-2-803, 52-2-805, 52-2-809, MCA

4. The department has thoroughly considered the comments and testimony received. A summary of the comments received and the department's responses are as follows:

Comment #1: Two commenters expressed concerns that the requirement to have a fixed number telephone to the child abuse hotline operated by the department was missing from being addressed in the Administrative Rules of Montana.

Response #1: Section 52-2-805(5), MCA addresses the requirement for Private Alternative Adolescent Residential Programs (PAARPs) to have "a fixed number telephone to the child abuse hotline operated by the department that is readily available to enrolled participates 24 hours a day." Because this is specifically stated in statute, it is unnecessary that it be included in rule.

Comment #2: Three commenters requested the department define "confidential" specific to the requirement of allowance for PAARP participants to have confidential video telephone calls with the youth's parents/legal guardians. It was also requested that the department stipulate a minimum amount of time for these video calls.

Response #2: The department agrees that it makes sense to further specify what constitutes a confidential video telephone call. The department further amends ARM 37.99.118(1)(e) to provide that the requirement for confidential calls means that the youth is granted video telephone calls in a private setting with no other individuals in the vicinity of being able to see or hear what is being discussed, and that the call is allocated a minimum of 15 minutes for the conversation.

Comment #3: Two commenters requested the department to restore "use of physical force by staff" to the definition of "serious incident" mentioned in ARM 37.99.102.

Response #3: The department agrees to the request. Use of physical force by staff should be included in the definition of a "serious incident" for review by the program and the department to determine if the force was excessive or abusive in nature. The department retains this portion of the rule that it had proposed to repeal.

Comment #4: Three commenters suggested that the training requirement for suicide, crisis intervention, and restraint use be "evidence-based" training.

Response #4: The department agrees with the commenter's suggestions to require trainings be evidence-based. Evidence-based practices are proven to improve quality of care, patient safety, and many positive clinical outcomes when followed. ARM 37.99.172(2) will be amended to indicate, "The crisis intervention and physical restraining policies and procedures must include evidence-based training and include:" with (a) through (f) remaining as proposed.

Comment #5: Three commenters suggested that the department define "physical discipline" as to prohibit excessive physical labor or work detail as a means of physical discipline.

Response #5: Physical discipline is described in ARM 37.99.170(2)(f), which says, "physical discipline of any means including but not limited to hitting, shaking, biting, or pinching." This description does not include the use of excessive physical labor. The same rule, ARM 37.99.170, also requires behavior management policies and procedures to prohibit "(d) cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort." The department believes that ARM 37.99.170 already addresses the prohibition of using excessive physical labor as a means of discipline.

Comment #6: A written comment was received regarding ARM 37.99.102(1)(b) regarding the definition of an adolescent and the allowance of the program participant to remain through the age of 20 years old if part of a secondary school. The commenter indicates that a program participant should be infrequently staying past the age of 18, suggests that the department should look at any youth that stays past the age of 18, and questions why the requirement of an accredited secondary school be the only requirement needing to be met to allow a youth to stay past 18.

Response #6: There is no suggestion in the comment for revision to the proposed amendments. The department has taken note of the concerns and will plan to collect data on the frequency of youth remaining in PAARP programs past the age of 18. The frequency or infrequency of this occurrence will determine if additional amendments to this portion of the rule is required.

Comment #7: A written comment was received indicating appreciation for the changes to ARM 37.99.102(15).

Response #7: The department appreciates the support for these amendments.

Comment #8: A written comment was received requesting that the requirement for specific plans for participants who will turn 18 while in the program be added to ARM 37.99.119(3).

Response #8: The department does not agree with the recommended changes. The department believes that ARM 37.99.119(2)(g), "program participants reaction to discharge and whether or not the discharge was planned or unplanned," and (h), "recommendations for follow-up services" cover this recommended change.

Comment #9: A written comment was received requesting that the department define "exploitation" and "harassment."

Response #9: The department declines the suggestion to add definitions for "exploitation" and "harassment." These terms are defined and utilized in many areas of the Montana Code Annotated, and have legal ramifications associated with them. The department defers to existing definitions.

Comment #10: A written comment was received requesting that the department define "mechanical restraint" to include any mechanism to restrain any movement.

Response #10: The department declines the request of the commenter. The definition of "mechanical restraint" is located in ARM 37.99.102(11). The commenter indicates awareness that mechanical restraint is already defined in this subchapter, but requests additional notation of definition under ARM 37.99.125(2)(d). The department does not support redundancy in rules.

Comment #11: A written comment was received requesting that the department define "sexual exploitation" and "harassment."

Response #11: The department does not agree with the request of the commenter. ARM 37.99.125(2)(h) states, "A program is prohibited from (h) sexually abusing, exploiting, or harassing a program participant." "Sexual exploitation" is not a term used within the subchapter. See Response #9 regarding the definition of harassment.

Comment #12: A written comment was received indicating that the department needs to develop a standard for requirements in ARM 37.99.127(3)(b) and (d). The standard developed by the department should include what needs to be included and should be based on best practices.

Response #12: The department does not agree that it should develop a standard for all PAARPs. Each program is unique, has unique individuals, and has its own

processes for conducting the program and for documentation. The department has been successful in deciphering compliance with safety plan and reporting requirements with the different methods that the PAARPS are using. Accordingly, the department does not believe that standard or uniform requirements are necessary.

Comment #13: A written comment was received suggesting the department create a standard of what needs to be reported to the state when a restraint is used.

Response #13: The department does not agree that it needs to develop a standard for what is to be reported. The reporting requirements are addressed in ARM 37.99.172(2). The department has been successful in determining compliance with reporting requirements with the different methods that the PAARPs are using. Accordingly, the department does not believe that standard or uniform requirements are necessary.

Comment #14: A verbal comment was received during the rule hearing requesting that the department include cavity searches in the definition of "sexual abuse."

Response #14: Sexual abuse is not defined in this subchapter; therefore, the commenter's proposed revision cannot be adopted. The department notes, however, that ARM 37.99.173(5)(b) prohibits program participants be subjected to body cavity searches.

Comment #15: A verbal comment was received during the rule hearing indicating that the requirement for a fixed phone line to the child abuse hot line should not be made mandatory. The commenter expressed that because of where some of the programs are located, fixed lines are not possible so the requirement will not be able to be met for at least some of the PAARPs.

Response #15: The requirement for a fixed line is in the statute. Consequently, the department does not believe that it can make exceptions to the statutory requirement. Programs will need to find resources to meet this statutory requirement.

Comment #16: A verbal comment was received during the rule hearing indicating that they would like the confidential telephone call requirement to stay in and not have the requirement of the video call. The commenter indicates many families do not know how to use video calls or they prefer telephone calls.

Response #16: The facility has to be able to provide confidential video calls between a youth and the youth's parents or legal guardians. If the youth or the parents or legal guardians refuse to utilize the video component, and just want to use the voice calling, they can make that choice, but the facility has to provide the option and the ability to conduct a video call.

Comment #17: Two commenters referenced the emergency plans and drills requirement. One commenter indicates they perform emergency drills more frequently than rule requires already. Another commenter made comments that the emergency plans require students to know the plans and practice the procedures, and the commenter asked about emergency kits.

Response #17: Neither commenter suggested a change to the proposed rules, and the rule referenced is not one addressed by the amendment notice. The comments are outside the scope of this rulemaking; therefore, they are not being addressed in this notice.

Comment #18: Written comments suggesting staffing ratios at night were received, and a suggestion that training not be done just at staff meetings was made.

Response #18: The comments are outside the scope of this rulemaking; therefore, they are not being addressed in this notice.

/s/ Gregory Henderson
Gregory Henderson
Rule Reviewer

/s/ Robert Siedlecki
Robert Siedlecki, Deputy Director
Department of Public Health and Human Services

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.20.107 and 42.20.108 and the repeal of ARM 42.20.109 pertaining to the valuation of commercial properties	)))))	NOTICE OF DECISION ON PROPOSED AMENDMENT AND REPEAL

TO: All Concerned Persons

1. On June 7, 2024, the Department of Revenue published MAR Notice No. 42-1078 pertaining to the public hearing on the proposed amendment and repeal of the above-stated rules at page 1377 of the 2024 Montana Administrative Register, Issue Number 11.

2. A public hearing on the notice of proposed amendment and repeal of the above-stated rules was held on July 1, 2024, and the deadline for public comment was July 8, 2024.

3. After receiving comment from the public on the proposals, the department has decided to withdraw MAR Notice No. 42-1078 from consideration. The department plans to initiate informational meetings in Fall 2024 with stakeholders and those who have concerns about the proposed rules changes with the goal of receiving additional input to engage in a similar rulemaking in Spring 2025.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State August 27, 2024.

BEFORE THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM 42.4.301 through 42.4.303, 42.4.401 through 42.4.403, 42.4.804, 42.4.2302, 42.4.2602, 42.4.2604, 42.4.2701, 42.4.2703, 42.4.2704, 42.4.3002, and 42.4.3202, the repeal of ARM 42.4.104, 42.4.110, 42.4.404, 42.4.501, 42.4.502, 42.4.2504, 42.4.2903, 42.4.4101, 42.4.4106, 42.4.4107, 42.4.4109, 42.4.4112 and the transfer of ARM 42.4.105, 42.4.4105, 42.4.4108 and 42.4.4114 pertaining to the department's implementation of Senate Bill 399 (2021), House Bill 191 (2021), and Senate Bill 506 (2023)	)	NOTICE OF AMENDMENT, REPEAL, AND TRANSFER

TO: All Concerned Persons

1. On July 5, 2024, the Department of Revenue published MAR Notice No. 42-1079 pertaining to the public hearing on the proposed amendment, repeal, and transfer of the above-stated rules at page 1548 of the 2024 Montana Administrative Register, Issue Number 13.

2. On July 29, 2024, the department held a public hearing to consider the proposed amendment, repeal, and transfer. No interested persons appeared at the hearing. No oral or written comments were received.

3. The department has amended, repealed, and transferred the above-described rules as proposed.

/s/ Todd Olson
Todd Olson
Rule Reviewer

/s/ Brendan Beatty
Brendan Beatty
Director of Revenue

Certified to the Secretary of State August 27, 2024.

NOTICE OF FUNCTION OF ADMINISTRATIVE RULE REVIEW COMMITTEES

Interim Committees and the Environmental Quality Council

Administrative rule review is a function of interim committees and the Environmental Quality Council (EQC). These interim committees and the EQC have administrative rule review, program evaluation, and monitoring functions for the following executive branch agencies and the entities attached to agencies for administrative purposes.

Economic Affairs Interim Committee

- Department of Agriculture
- Department of Commerce
- Department of Labor and Industry
- Department of Livestock
- Office of the State Auditor (Commissioner of Securities and Insurance)
- Office of Economic Development
- Division of Banking and Financial Institutions
- Alcoholic Beverage Control Division
- Cannabis Control Division

Education Interim Committee

- State Board of Education
- Board of Public Education
- Board of Regents of Higher Education
- Office of Public Instruction
- Montana Historical Society
- Montana State Library

Children, Families, Health, and Human Services Interim Committee

- Department of Public Health and Human Services

Law and Justice Interim Committee

- Department of Corrections
- Department of Justice

Energy and Telecommunications Interim Committee

- Department of Public Service Regulation

Revenue Interim Committee

- Department of Revenue
- Montana Tax Appeal Board

State Administration and Veterans' Affairs Interim Committee

- Department of Administration
- Montana Public Employee Retirement Administration
- Board of Investments
- Department of Military Affairs
- Office of the Secretary of State
- Office of the Commissioner of Political Practices

Transportation Interim Committee

- Department of Transportation
- Motor Vehicle Division (Department of Justice)

Environmental Quality Council

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

Water Policy Interim Committee (where the primary concern is the quality or quantity of water)

- Department of Environmental Quality
- Department of Fish, Wildlife and Parks
- Department of Natural Resources and Conservation

These interim committees and the EQC have the authority to make recommendations to an agency regarding the adoption, amendment, or repeal of a rule or to request that the agency prepare a statement of the estimated economic impact of a proposal. They also may poll the members of the Legislature to determine if a proposed rule is consistent with the intent of the Legislature or, during a legislative session, introduce a bill repealing a rule, or directing an agency to adopt or amend a rule, or a Joint Resolution recommending that an agency adopt, amend, or repeal a rule.

The interim committees and the EQC welcome comments and invite members of the public to appear before them or to send written statements in order to bring to their attention any difficulties with the existing or proposed rules. The mailing address is P.O. Box 201706, Helena, MT 59620-1706.

RECENT RULEMAKING BY AGENCY

The Administrative Rules of Montana (ARM) is a compilation of existing permanent rules of those executive agencies that have been designated by the Montana Administrative Procedure Act for inclusion in the ARM. This list includes notices in which those rules adopted during the period March 8 through August 23, 2024, occurred and any proposed rule action that was pending during the past 6-month period. (A notice of adoption must be published within six months of the published notice of the proposed rule.) This list does not include the contents of this issue of the Montana Administrative Register (MAR or Register).

To be current on proposed and adopted rulemaking, it is necessary to check the ARM updated through March 31, 2024, this list, and the table of contents of this issue of the Register.

This list indicates the department name, title number, notice numbers in ascending order, the subject matter of the notice, and the page number(s) at which the notice is published in the 2024 Montana Administrative Register.

To aid the user, this list includes rulemaking actions of such entities as boards and commissions listed separately under their appropriate title number.

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